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OFFICE OF PETITIONS

KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND OR 97204

In re Patent of : DECISION ON REQUEST
Chang : FOR
Patent No. 7,662,394 : RECONSIDERATION OF
Issue Date: February 16, 2010 : PATENT TERM ADJUSTMENT
Application No. 10/500,796 : and
Filed: July 6, 2004 : NOTICE OF INTENT TO ISSUE
Atty Docket No. 6395-64909-02 : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 7, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be recalculated.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent be recalculated is **GRANTED**.

The calculation of delay pursuant to 37 CFR 1.702(b) is based on a national stage commencement date of October 6, 2003. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, October 6, 2003. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on October 7, 2006 and ends on June 25, 2008, the day before a RCE was filed, and is 628 days. See 35 U.S.C. 154(b)(1)(B)(i). There is a 112 day overlap between the A delay and B delay periods, beginning on October 7, 2006 and ending on January 26, 2007. As such, the patent term adjustment is **868 days** (508 A delay + 628 B delay - 112 overlap - 156 Applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The petition fee of \$200.00 is being charged to deposit account no. 02-4550.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred sixty-eight (868) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,662,394 B2

DATED : February 16, 2010

DRAFT

INVENTOR(S) : Chang

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 352 days

Delete the phrase "by 352 days" and insert – by 868 days--